

## **An Example of the Value of Reviewing Existing Regulations Periodically**

### **Puerto Rico's "Junkers" Rule**

In December of 2000, Puerto Rico passed the Regulatory Flexibility Act (RFA) Law Number 454 – “Ley de Flexibilidad Administrativa Y Reglamentaria para Pequeños Negocios,” which requires state agencies to perform an economic impact analysis, a regulatory flexibility analysis, and a periodic review of existing regulations. The law also contains a judicial review provision. Additionally, a new position, the Small Business Advocate, was created within the Office of the Ombudsman to oversee the execution of the law through authority to implement administrative and executive investigations, lobby the legislature, and make requests and interact directly with state agencies. The Small Business Advocate began a process mandating that all state agencies review existing regulations that might be affecting small businesses.

On June 27, 1966, Law Number 125 (“Law 125”) was passed to govern businesses called “Junkers,” also known as junk yards in the United States. In Puerto Rico, Junkers are generally in the business of buying both used and salvaged cars for the purpose of selling the used parts. Despite the requirements of Law 125, many of the Junkers operated illegally. As a result, in 1994 the Puerto Rico Department of Transportation and Public Works (“DTOP”) issued a rule which called for Junkers to comply with the law’s requirements for filing and renewing operating permits, recording and recordkeeping of the used parts, and paying all outstanding debts associated with the vehicle. The law also established fine amounts for businesses in violation of the statute.

In response to the periodic review requirement under Puerto Rico’s RFA, in 2004 DTOP examined the 1994 Junkers regulation. This was the beginning of what would become a comprehensive course of action by DTOP to identify all regulations that were affecting these particular small businesses, to review and revise those rules that were found to be burdensome, and to eliminate rules that were no longer effective or were deemed redundant.

DTOP began by compiling research for the flexibility analysis to determine which requirements were critical to the regulation and which might be negatively impacting the businesses. They systematically collected data on the Junkers operating on the island including: business addresses; businesses holding a valid operating license versus those operating illegally; the number of employees; estimated operating expenses; a description of recordkeeping; and other pertinent information. They also identified other state governmental agencies that had regulations impacting the Junker industry such as the Fire Corps Department, the Health Department, the Permit and Regulation Administration, and the Environmental Agency to name a few. After identifying which agency oversaw which related rules, DTOP calculated the licensing costs and requirements of each agency rule and made an assessment of other agency regulations that could conflict with the DTOP rule.

Before issuing their conclusion, DTOP held a series of meetings in conjunction with the Junkers Association to receive comments directly from the businesses. The final outcome was a positive end result for the legitimate Junkers in Puerto Rico and for DTOP. The Department took all of the comments that it received and its analysis into consideration and revised the rule to streamline the filing requirements for an operating license and eliminated the requirement that the Junker pay all outstanding fines attached to the vehicle. Since that time, DTOP has begun to see an increase in the number of Junkers that are operating in compliance with Law 125.